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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Jacquelyn Anne WESTLEY et al.

Application No.: 10/760,527

Group Art Unit: 1742

Filed: January 21, 2004

Docket No.: 118287

For: LASER SHOCK PEENING

PETITION UNDER 37 C.F.R. §1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.47(a), this Petition is filed to request acceptance and examination of the above-identified application without the signature on the Declaration and Power of Attorney of Jacquelyn A. Westley, one of the three co-inventors. Attached hereto is a Declaration of Vicky McCarthy, supporting the Petition Under 37 C.F.R. §1.47(a), that includes the facts summarized below relating to the refusal of the co-inventor to sign the Declaration for this application.

The last known address of the non-signatory co-inventor is Jacquelyn A. Westley, Penthouse, Station Road, Llanwern Village, Newport, Gwent, NP18 2DW, Great Britain.

I. Background

The present application, U.S. Application Serial No. 10/760,527, was filed on January 21, 2004, in the U.S. Patent and Trademark Office without an executed Declaration.

A Notice to File Missing Parts (mailed April 29, 2004) was received in the instant

application. A response, including a Declaration signed by two of the three co-inventors, Dean Jones and Ian Andrews, and on behalf of Ms. Westley, is being filed herewith.

II. Statement of Facts

A letter, including a copy of the complete U.S. Patent Application (specification, claims, Declaration/Power of Attorney and Assignment) were sent to Ms. Westley's last known address on January 5, 2004, requesting that she review the application and execute and return the Declaration/Power of Attorney. No response was received from Ms. Westley.

A letter was sent to Ms. Westley's last known address on February 12, 2004 requesting that she execute and return the Declaration/Power of Attorney provided with the January 5, 2004 letter. No response was received from Ms. Westley.

On or about February 23, confirmation of Ms. Westley's last known address was determined through Ms. Westley's former employer, Rolls-Royce, plc.

On February 24, 2004 a letter, including the U.S. Patent Application with specification and claims, the Declaration/Power of Attorney and Assignment was again sent to Ms. Westley's last known address by special delivery (a service requiring acknowledgement of receipt by an executed signature card) through the Royal Mail Service, requesting execution and return of the Declaration/Power of Attorney. Confirmation of receipt of the special delivery package was conducted on the Royal Mail website indicating that the mailing had been received at Ms. Westley's last known address on February 26, 2004. The package was also signed for by Ms. Westley. No response to the February 24 letter was received from Ms. Westley.

On March 25, 2004 a letter was sent to Ms. Westley's last known address with the entire U.S. Patent Application including specification and claims, Declaration/Power of Attorney and Assignment. The letter included a request that the Declaration/Power of Attorney be executed and returned by April 14, 2004. Confirmation of receipt of the letter at

Ms. Westley's last known address was confirmed through the Royal Mail website. No response has been received from Ms. Westley being located.

On May 11, a search was performed on the website of British Telecom but did not result in a telephone number for Ms. Westley.

On May 18, a letter was sent to Ms. Westley's last known address enclosing the entire U.S. Patent Application, including the specification and claims, Declaration/Power of Attorney and Assignment. The letter included a request that the Declaration/Power of Attorney be executed and returned within 7 days of receipt. The letter, marked as "REFUSED", was returned to the sender.

III. Actions Requested

Diligent efforts to obtain Ms. Westley's voluntary execution of the required Declaration under 37 C.F.R. §1.63 have failed. Ms. Westley's actions must be taken as a refusal to execute the Declaration. The facts relied upon to establish diligent effort and Ms. Westley's refusal are set forth in the enclosed Declaration under 37 C.F.R. §1.47(a). The last known address of Ms. Westley has been provided.

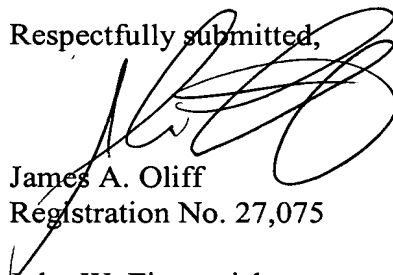
In view of the foregoing, it is respectfully submitted that the requirements of 37 C.F.R. §1.47(a) have been satisfied. Specifically, the following requirements have been met: (1) Co-Inventors, Mr. Jones and Mr. Andrews, have made an oath/declaration on their own behalf as required by 37 C.F.R. §1.63 and on behalf of the non-signing co-inventor, Ms. Westley, as required by 37 C.F.R. §1.64; (2) Applicants have provided proof of the pertinent facts surrounding Ms. Westley's refusal to execute the application papers; (3) Applicants have provided the last known address of the non-signing co-inventor, Ms. Westley; and (4) Applicants have provided the fee set forth in 37 C.F.R. §1.17(h).

It is respectfully requested that this application be accepted for examination without Ms. Westley's signature. Included is Check No. 156421 for \$130.00 in payment of the

Petition Fee Under 37 C.F.R. §1.17(h). Please credit any overpayment or debit any underpayment to Deposit Account No. 15-0461.

If any further information is needed in order to obtain acceptance and examination of this application pursuant to 37 C.F.R. §1.47(a) and/or 37 C.F.R. §1.63, Applicants' undersigned representatives invite the Patent Office to telephone at the number listed below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

John W. Fitzpatrick
Registration No. 41,018

JAO:JWF/ldg

Attachments:

Declaration of Vicky McCarthy
Declaration and Power of Attorney (Dean Jones)
Declaration and Power of Attorney (Ian Andrews)

Date: July 20, 2004

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--



Rolls-Royce

PO Box 3, Filton, Bristol BS34 7QE, England
Telephone: +44 (0) 117 979 1234
Fax: +44 (0) 117 979 7575

Mrs J A Westley
Penthouse
Llanwern Village
Newport
GWENT
NP18 2DW

Direct dial 0117 979 7169
Direct fax 0117 979 7337
Date 5 January 2004
Our ref PAT/GPW/3084
Your ref
email vicky.mccarthy@rolls-royce.com

Dear Lyn

GB PATENT APPLICATION NO 0302554.1
CONTROL LASER OPTICS ON THE FLY FOR LASER PEENING

You may recall that in February last year we filed the above British patent application on the above titled invention. Dean Jones, Ian Andrews and yourself were named as inventors.

A decision was made at a recent Patents Committee Meeting to continue with the above British patent application and file a corresponding patent application in USA. In order to proceed with the US application I require your signature on the attached forms. Please sign and date the forms where I have indicated in the presence of two witnesses who should also sign and date the Assignment where shown. When they are both signed please return to me.

If you have any queries please do not hesitate to contact me.

Yours sincerely
For ROLLS-ROYCE plc

VICKY McCARTHY
Secretary to John Bird, Paul Walker and Adam Tindall

Att



Rolls-Royce

PO Box 3, Filton, Bristol BS34 7QE, England
Telephone: +44 (0) 117 979 1234
Fax: +44 (0) 117 979 7575

Mrs J A Westley
Penthouse
Llanwern Village
Newport
GWENT
NP18 2DW

Direct dial 0117 979 7169
Direct fax 0117 979 7337
Date 12 February 2004
Our ref PAT/GPW/3084
Your ref
email vicky.mccarthy@rolls-royce.com

Dear Lyn

GB PATENT APPLICATION NO 0302554.1
CONTROL LASER OPTICS ON THE FLY FOR LASER PEENING

I am writing to request that the forms I enclosed under cover of my letter dated 5 January 2004 should be signed and return as soon as possible. I now have a deadline of 21 March 2004 by which time the forms must be lodged at the US Patent Office.

If you have misplaced the forms please let me know and I will forward replacement copies. My telephone number is given above and there is voicemail if you should call out of hours.

I look forward to hearing from you.

Yours sincerely
For ROLLS-ROYCE plc

VICKY McCARTHY
Secretary to John Bird, Paul Walker and Adam Tindall

Att

McCarthy, Vicky

From: Crampton, Nicola
Sent: 24 February 2004 12:59
To: McCarthy, Vicky
Subject: RE: SAP Address Check

That's the address on SAP.

-----Original Message-----

From: McCarthy, Vicky
Sent: 23 February 2004 12:25
To: Crampton, Nicola
Subject: SAP Address Check

When convenient please would you check the address for Mrs Jacquelyn A Westley who's left the company. I have

Penthouse
Llanwern Village
Newport
Gwent NP18 2DW.

Thanks.

Vicky McCarthy

Secretary to John Bird, Paul Walker and Adam Tindall
Intellectual Property Department
tel 0117 979 7169 fax 0117 979 7337
email vicky.mccarthy@rolls-royce.com

Find out more about Intellectual Property at <http://www.capability.rolls-royce.com/KnowledgeandInnovation2/>



Rolls-Royce

PO Box 3, Filton, Bristol BS34 7QE, England
Telephone: +44 (0) 117 979 1234
Fax: +44 (0) 117 979 7575

Mrs J A Westley
Penthouse
Llanwern Village
Newport
GWENT
NP18 2DW

sent by
recorded
delivery
24/2

Direct dial 0117 979 7169
Direct fax 0117 979 7337
Date 24 February 2004
Our ref PAT/GPW/3084
Your ref
email vicky.mccarthy@rolls-royce.com

Dear Lyn

GB PATENT APPLICATION NO 0302554.1
CONTROL LASER OPTICS ON THE FLY FOR LASER PEENING

Further to my letters of 5 January 2004 and 12 February 2004 I am writing to request that the US patent forms should be signed and return to me as soon as possible. In case you have misplaced the original forms I am enclosing replacement copies and a return envelope.

These forms must be on file at the US Patent Office by 21 March 2004 at the latest. In order to allow for postage time to the USA I should be grateful for their prompt return.

If you have any questions please do not hesitate to contact me.

Yours sincerely
For ROLLS-ROYCE plc.

VICKY McCARTHY
Secretary to John Bird, Paul Walker and Adam Tindall

Att

BL 3084

USA

2 mar 04

Royal Mail Track & Trace

Results

Your item with reference DT120647689GB was delivered before 06:22 on 26/02/04.



We do not pay compensation for money or jewellery sent Recorded, use Special Delivery instead

Value of item
£

Date stamp

Initials
DT120647689GB

For confirmation of delivery...

Visit our Web site www.royalmail.com or call 0845 9 272 100 from 2pm two working days after posting First class, or four working days after posting Second class, and quote:

~~RE 5275 2948 308~~

To see proof of delivery...

Call 0845 9 272 100 and ask for Proof of Delivery to get a copy of the recipient's signature. There will be an extra charge for this service. Remember, the person who signs for your package may not be the person you sent it to.

If your item is lost or damaged...

We'll pay you compensation for the value of your item up to 100 times the price of a basic weight First Class stamp. We do not pay compensation for money, jewellery or other items of value sent Recorded. For a claim form, call 0845 7 740 740 calls charged at local rates, or pick one up at a post office

To check a Postcode...

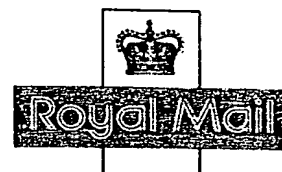
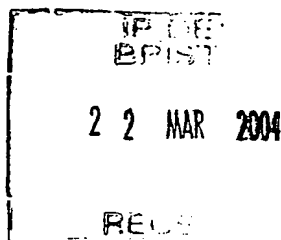
Call 0845 7 111 222 calls charged at local rates

confirmation
of delivery
to Wn
Cottley's
house

2 mar. (Trace)
E2. 20 for mail
proof of
delivery.
Req will be
sent to us.
Upon their
receipt of
cheque they
will forward
copy of
signature.

Date: 18 March 2004
Your Ref:
Our Ref: 1-831177229
Track Ref: DT120647689GB

Ms V McCarthy
Rolls Royce Plc
PO Box 3
Gloucester Road North
Filton
BRISTOL
BS34 7QE



The Real Network

Glasgow Contact Centre
PO Box 740
GLASGOW
G2 1XX
Telephone 08457 740 740
Website www.royalmail.com
Textphone 08456 000 606
(for the deaf and hard of hearing)

Dear Ms McCarthy

Thank you for your enquiry received on 14th March 2004 about a Recorded delivery item, reference number DT120647689GB, addressed to:

J A Westeley
Penthouse
Station Road
Llanwern
NEWPORT
NP18 2DW

I can confirm that this item was delivered as addressed on 25th February 2004 and a photocopy of the signature we obtained is enclosed for your use.

Thank you for using our Recorded delivery service and if we can be of any more help, please contact us again.

Yours sincerely

Carol-Anne Andrews

Carol-Anne Andrews
Customer Service Advisor

Enclosure: Copy of signature

243 Duty

Glynwch rif cod-bar yr eitem a rhwch amser ei dosbarthu, neu'r ymgais i'w dosbarthu. Rhaid i'r derbynnydd lofnodi a phrintio'i (h)enw cyn i chi gyflwyno'r eitem lddo/iddi.

Affix the item barcode number and enter the time of delivery, or attempted delivery. The recipient must sign and print their name before the item is handed over.

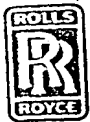
Cedamhwyd ar ddiyn/olrhain
Lythrennau blaen y PHG
Confirmed on track/trace
PHG initials



Phyl ID 081812	Enw Name A. WALK.
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Nifer yr eitemau i'w dosbarthu Number of items for delivery	Nifer yr eitemau na ddechreuwyd mohonynt Number of items not delivered
Blaenoriaeth Priority	Recorded Recorded
1	4
Dychwelwyd Returned	I'r cwydyn Pouched off

<p>K.M. BOWEN</p> <p>SJ 4733 1587 1GB 12.00pm sign</p> <p>DT 2653 9754 3GB SIGNED FOR</p> <p>DT 5342 9855 1GB SIGNED FOR</p> <p>DT 1206 4768 9GB</p>	<p>Printiwch eich enw Print name BOWEN</p> <p>Gwiriwch yr amser a llofnodwch Check time and sign [Signature]</p> <p>Time 2</p> <p>Printiwch eich enw Print name T. KENPSAN</p> <p>Gwiriwch yr amser a llofnodwch Check time and sign [Signature]</p> <p>Time 3</p> <p>Printiwch eich enw Print name P. MITCHELL</p> <p>Gwiriwch yr amser a llofnodwch Check time and sign [Signature]</p> <p>Time 4</p> <p>Printiwch eich enw Print name J. A. WESTLEY</p> <p>Gwiriwch yr amser a llofnodwch Check time and sign [Signature]</p>
--	--



Rolls-Royce

PO Box 3, Filton, Bristol BS34 7QE, England
Telephone: +44 (0) 117 979 1234
Fax: +44 (0) 117 979 7575

Mrs J A Westley
Penthouse
Station Road
Llanwern Village
Newport
GWENT
NP18 2DW

[Handwritten signature]
[Handwritten signature]
[Handwritten signature]
[Handwritten signature]
[Handwritten signature]

Direct dial 0117 979 7169
Direct fax 0117 979 7337
Date 25 March 2004
Our ref PAT/GPW/3084

Your ref email vicky.mccarthy@rolls-royce.com

Dear Lyn

GB PATENT APPLICATION NO 0302554.1
CONTROL LASER OPTICS ON THE FLY FOR LASER PEENING

Please find enclosed a Declaration and Power of Attorney, an Assignment, and a copy of the patent application for the above invention, made during your employment by Rolls-Royce.

Please sign and date the enclosed Declaration and Power of Attorney, and the Assignment, in the presence of two witnesses.

Please also ensure the witnesses sign and date the Assignment where shown.

Please then return the completed forms as soon as possible, in the stamped addressed envelope which I enclose for your convenience.

I note that this is my fourth letter requesting your signature, having written to you previously on the 5th January 2004, the 12th February 2004 and the 24th February 2004. I have not yet received a reply to any of these letters.

It is important that we receive these documents from you as, under US patent law it is requirement that all inventors sign a Declaration and Power of Attorney, and an Assignment in order for the US Patent Application to proceed. With this in mind, please let me know, preferably in writing, if you are unable or unwilling to sign these forms.

Please let me have your response by Wednesday 14 April 2004.

Yours sincerely
For ROLLS-ROYCE plc

[Handwritten signature]

VICKY McCARTHY

Secretary to John Bird, Paul Walker and Adam Tindall

Rolls-Royce plc Registered office: 65 Buckingham Gate, London SW1E 6AT.
Company no. 1003142. Registered in England

[Handwritten note: no response received 6/5]

Att

24 3084

05

30/3/04.

Track & Trace

Results

Your item with reference ZH034182863GB was delivered before 09:47 on 26/03/04.

Royal Mail
Track & Trace
Service
0845-9272 100

Information
on delivery
on 26/3/04
to 0845-9272 100

ZH 0341 8286 3GB

30/3.
Proof of
signature.

Proof received
The following are
proof of delivery
to the following
addresses:
1. 0845-9272 100
2. 0845-9272 100
3. 0845-9272 100
4. 0845-9272 100
5. 0845-9272 100
6. 0845-9272 100
7. 0845-9272 100
8. 0845-9272 100
9. 0845-9272 100
10. 0845-9272 100

11/ MAY/04

Tried to find Lynn Wooley's phone number via British Telecom's online directory enquiries. Two Wooleys were listed for Llanwrtyd, neither of them the right Wooley. (See attached sheet)





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118 500 Direct

The new and improved

Directory Enquiries

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Directory Enquiries



Use the GO button to view the phone number you want.

Westley J.M, 30, Rothesay Rd, Newport



Westley R, 169, Risca Rd, Newport



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Telephone: +44 (0) 117 979 1234
Fax: +44 (0) 117 979 7575

Mrs J A Westley
Penthouse
Station Road
Llanwern Village
Newport
GWENT
NP18 2DW

Direct dial 0117 979 7137
Direct fax 0117 979 7337
Date 18 May 2004
Our ref PAT/GPW/3084
Your ref
email john.bird@rolls-royce.com

Dear Mrs Westley

US PATENT APPLICATION NO 10/760,527 CORRESPONDING TO
GB PATENT APPLICATION NO 0302554.1
CONTROL LASER OPTICS ON THE FLY FOR LASER PEENING

We wrote to you on 5 January 2004 asking you to sign forms for the above US patent application and have subsequently sent three reminders on 12 February 2004, 24 February 2004 and 25 March 2004, but have received no response. This is a final reminder.

US patent law requires that we obtain the signatures of all inventors. Unless I receive your reply within 7 days I shall assume that you have refused to sign the forms, in which case I will proceed with an alternative course of action.

If you decide to sign the forms please sign and date the enclosed Declaration, attached to a copy of the patent specification as filed in the USA, and the Assignment. Please sign and date both forms in the presence of two witnesses who should also sign and date the Assignment where shown. Your co-operation would be appreciated.

Yours sincerely
For ROLLS-ROYCE plc

JOHN BIRD
IP Manager

Rolls-Royce plc Registered office: 65 Buckingham Gate, London SW1E 6AT

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[illegible]